

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

Crim. No. 08-213 (RHK/AJB)

ORDER

v.

Michael David Roberts,

Defendant.

This matter is before the Court on the Government's Motions *in Limine* regarding entrapment and selective prosecution.¹ Pursuant to an Order dated April 14, 2009 (Doc. No. 125), Defendant has submitted to the Court for *in camera* review two memoranda in opposition to these Motions, which set forth the theory of his defense and the evidentiary basis therefor. Defendant also has submitted a "sanitized" version of his Memorandum regarding entrapment, which has been disclosed to the Government, and the Government has now submitted a reply. Having reviewed the parties' submissions, and based on all the files, records, and proceedings herein, **IT IS ORDERED** as follows:

1. The Government's Motion *in Limine* regarding entrapment is **DENIED**. However, in accordance with its admonition at the April 14, 2009 status conference, the Court reminds Defendant that if the evidence adduced at trial does not establish a *prima facie* case of entrapment, see United States v. Zimmermann, 509 F.3d 920, 927 (8th Cir.

¹ The Motions are found at Docket No. 122; the basis therefor is set forth in the Government's trial brief (Doc. No. 121).

2007) (initial burden is on defendant to produce evidence of government inducement), the Court will inform the jury that the entrapment issue is not before it and that any reference to entrapment made by defense counsel should be disregarded; and

2. The Government's Motion *in Limine* regarding selective prosecution is **GRANTED**, as follows: Defendant may introduce evidence of racial bias only when impeaching Government witnesses.

Dated: April 30, 2009

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge